

Maine Revised Statutes

Title 38: WATERS AND NAVIGATION

Chapter 3: PROTECTION AND IMPROVEMENT OF WATERS

§570. LIABILITY

The intent of this subchapter is to provide the means for rapid and effective cleanup and to minimize direct and indirect damages and the proliferation of 3rd-party claims. Accordingly, each responsible party is jointly and severally liable for all disbursements made by the State pursuant to section 569-A, subsection 8, paragraphs B, D, E, H and J, or other damage incurred by the State, except for costs found by the commissioner to be eligible for coverage under section 568-A. The term "other damages," as used in this paragraph, includes interest computed at 15% a year from the date of expenditure and damage for injury to, destruction of, loss of or loss of use of natural resources, the reasonable costs of assessing natural resources damage and the costs of preparing and implementing a natural resources restoration plan. The commissioner shall demand reimbursement of costs and damages paid by the department from state or federal funds as provided under section 569-A, subsection 10 except for amounts that are eligible for coverage by the fund under this subchapter. Payment must be made promptly by the responsible party or parties upon whom the demand is made. If payment is not received by the State within 30 days of the demand, the Attorney General may file suit in the Superior Court or the department may file suit in District Court and, in addition to relief provided by other law, may seek punitive damages as provided in section 568. Notwithstanding the time limits stated in this paragraph, neither a demand nor other recovery efforts against one responsible party may relieve any other responsible party of liability. This paragraph is repealed December 31, 2015. [2009, c. 319, §22, 23 (AFF); 2009, c. 319, §16 (RPR).]

This paragraph takes effect December 31, 2015. The intent of this subchapter is to provide the means for rapid and effective cleanup and to minimize direct and indirect damages and the proliferation of 3rd-party claims. Accordingly, each responsible party is jointly and severally liable for all disbursements made by the State pursuant to section 569-B, subsection 5, paragraphs B, D, E and G or other damage incurred by the State, including interest computed at 15% a year from the date of expenditure, and damage for injury to, destruction of, loss of or loss of use of natural resources and the reasonable costs of assessing natural resources damage. The commissioner shall demand reimbursement of costs and payment of damages paid by the department from state or federal funds to be recovered under this section and payment must be made promptly by the responsible party or parties upon whom the demand is made. If payment is not received by the State within 30 days of the demand, the Attorney General may file suit in the Superior Court or the department may file suit in District Court and, in addition to relief provided by other law, may seek punitive damages as provided in section 568. Notwithstanding the time limits stated in this paragraph, neither a demand nor other recovery efforts against one responsible party may relieve any other responsible party of liability. [2009, c. 319, §17 (NEW).]

In any suit filed under this section, the State need not prove negligence in any form or matter by a defendant. The State need only prove the fact of the prohibited discharge and that a defendant is a responsible party, as defined in section 562-A. [1993, c. 355, §23 (AMD).]

A person who would otherwise be a responsible party is not subject to liability under this section, if that person can establish by a preponderance of the evidence that the liability pursuant to this section for which that person would otherwise be responsible, was caused solely by: [1989, c. 865, §17 (AMD); 1989, c. 865, §24 (AFF).]

1. Act of God. An act of God; or

[1989, c. 865, §17 (AMD); 1989, c. 865, §24 (AFF).]

2. Act of war. An act of war.

[1989, c. 865, §17 (AMD); 1989, c. 865, §24 (AFF) .]

3. Act or omission.

[1989, c. 865, §24 (AFF); 1989, c. 865, §17 (RP) .]

4. Combination.

[1989, c. 865, §24 (AFF); 1989, c. 865, §17 (RP) .]

SECTION HISTORY

1985, c. 496, §A14 (NEW). 1987, c. 491, §22 (AMD). 1987, c. 735, §72 (RPR). 1989, c. 865, §§17,24,25 (AMD). 1991, c. 817, §§27,29 (AMD). 1991, c. 817, §§28,30 (AFF). 1993, c. 355, §23 (AMD). 1997, c. 364, §36 (AMD). 1997, c. 374, §§14-16 (AFF). 1997, c. 624, §§5,6 (AMD). 1999, c. 278, §§4,5 (AMD). 2003, c. 245, §§20,21 (AFF). 2007, c. 292, §§35, 36 (AMD). 2009, c. 319, §§16, 17 (AMD). 2009, c. 319, §22, 23 (AFF).

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